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09/614,489	07/11/2000	Andrew G. Swales	LAN01	2052
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/614,489	SWALES, ANDREW G.	
Examiner	Art Unit		
Khanh Dinh	2155		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 05 November 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-8 and 13-28 is/are pending in the application.  
4a) Of the above claim(s) 25-28 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-8 and 13-24 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 25-28 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ .

4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

**DETAILED ACTION**

1. This is in response to the Amendment filed on 11/5/2003 (paper # 7). Claims 1-8 and 13-24 and new claims 25-28 are presented for examination.

**Election/Restriction**

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8 and 13-24, drawn to a system for field replacement of network devices, classified in class 709, subclass 220.
- II. Claims 25-28, drawn to a method and system for automatic configuration of network devices, classified in class 709, subclass 224.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions II and I are related as subcombinations disclosed as usable together in a combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as to a system for field replacement of network devices, classified in a *different Class/Subclass*. Invention II has separate utility such as a method and system for automatic configuration of network devices, classified in a *different Class/Subclass*.

4. The inventions are distinct, each from the other, because of the following reasons:

(a) These inventions have acquired a separate status in the art as shown by their different classifications.

(b) The search required for each Group is different and not co-extensive for examination purposes.

For example, the searches for the three inventions would not be co-extensive because these Groups would require different searches on PTO's classification class and subclass as following:

the Group I search (claims 1-8 and 13-24) would require use of search **class 709, subclass 220** (not require for the invention II).

the Group II search (claims 9-12) would require use of search **class 709, subclass 224** (not require for the invention I).

For the reasons given above restriction for examination purposes as indicated is proper.

5. Newly submitted *claims 25-28* directed to an invention that is independent or distinct from the invention originally claimed for the reasons set forth above.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 25-28 are **withdrawn** from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

6. Therefore, claims **1-8 and 13-24** are presented for the examination.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims are 1-8 and 13-24 rejected under 35 U.S.C. 102(e) as being anticipated by Lee et al., US pat. No.6,601,101.

As to claim 1, Lee discloses a system for field replacement of networked devices, comprising the steps of:

detecting a failed networked device (identifying when a cluster to client communication is idle, see abstract, fig.1b, 2A, col.5 line 48 to col.6 line 38) and indicating need for replacement of said failed device (first device 130 of fig.1A) (i.e., using the handoff to occur fast enough so that the network no network packets are lost and the client does not timeout waiting for response to messages sent, see col.6 lines

12-60) with a functioning networked device (second device 135 fig.1A) (processing a handoff of the communication system).

locating a canonical location said functioning networked device (135 fig.1B) after said functioning network device is installed to replace said network device (130 fig.1B), wherein a port number of a managed switch (120 fig.1B) operative coupled to said functioning network device represents said canonical location (i.e., identifying when a cluster to client communication is idle, see figs.1B, 2A, col.6 line 13 to col.7 line 55).

issuing an IP dress to said functioning networked device, wherein said IP address is identical to the IP address of said failed networked device (see col.8 lines 9-67, col.10 line 13 to col.11 line 46 and col.20 lines 17-57).

As to claims 2 and 3, Lee discloses *at least* a unicast ARP request, a PING request and periodic ARP requests (see col.6 lines 6-65 and col.15 line 27 to col.16 line 50).

As to claim 4, Lee discloses indicating need for replacement of failed devices including notifying maintenance personnel of said failed networked device (reporting network load or availability and varying capacity of devices, see col.10 line 13 to col.11 line 46 and col.19 line 26 to col.20 line 57).

As to claim 5, Lee discloses processing a plurality of at least one of ARP requests and PING request over a time period before indicating said failed networked device (see col.6 lines 6-65 and col.15 line 27 to col.16 line 50).

As to claim 6, Lee discloses determining a MAC address for said functioning networked device and requesting a port number for said MAC address from said managed switching (notifying the peer computing devices of each new IP address assignment to each corresponding MAC address, see col.9 line 7 to col.10 line 64 and col.13 line 55 to col.14 line 65).

As to claim 7, Lee discloses identifying a plurality of target devices at said canonical location, comparing said canonical location of said functioning networked device with a database containing information of all said networked devices to isolate a single failed networked device at said canonical location (see col.9 line 7 to col.10 line 64 and col.13 line 55 to col.14 line 65).

As to claim 8, Lee discloses that issuing an IP address is suppressed if unable to isolate to a single failed networked device (see col.9 line 7 to col.10 line 64 and col.9 line 23 to col.10 line 51).

As to claim 13, Lee discloses a method for detecting a canonical location for a failed network device, comprising the steps of

Issuing a request for each of a plurality of one or more networked devices (130, 135 fig.1B) to confirm each device is alive (identifying when a cluster to client communication is idle, see abstract, fig.1b, 2A, col.5 line 48 to col.6 line 38).

detecting said failed network device (130 fig.1B) having a known address to determine a corresponding canonical location of said failed network device (130 fig.1B), wherein a port number of a managed switch operatively coupled to said failed network device (130 fig.1B) (identifying when a cluster to client communication is idle, see abstract, fig.1B, 2A, col.5 line 48 to col.6 line 38).

logging said MAC address, said canonical location, and an IP address for said failed network device (see col.10 line 13 to col.11 line 46 and col.20 lines 17-57).

As to claim 14, Lee discloses using at least a unicast ARP message and a PING request to a select IP address (using a ARP message, see col.6 lines 6-65 and col.15 line 27 to col.16 line 50).

As to claims 15-17, Lee discloses that the device is based on no-response to said request, notifying maintenance personnel of said failed network device and issuing requests is periodically performed (see col.9 line 7 to col.10 line 64 and col.13 line 55 to col.14 line 65).

As to claim 18, Lee discloses processing known address for said canonical location comprises accessing a database containing a known MAC address listing, an IP address listing and a port listing for each of said one or more networked devices, and wherein a port number represents said canonical location of said failed network device, matching said known to at least one of at least of said MAC and IP address listings,

thereby identifying a corresponding port number (i.e., notifying the peer computing devices of each new IP address assignment to each corresponding MAC address, see col.9 line 7 to col.10 line 64 and col.13 line 55 to col.14 line 65).

As to claim 19, Lee discloses a port number listing represents said canonical location of a plurality of target devices, and said IP address of said failed network device is determined by locating a single failed target device at said canonical location (see figs. 4A, 4B, 5B, col.9 line 7 to col.10 line 64 and col.13 line 55 to col.14 line 65).

As to claim 20, Lee discloses an apparatus for the automatic configuration of networked devices, comprising:

a network interface (120 fig.1B) interconnecting said networked devices (130 and 135 fig.1B) (see fig.1B, abstract, col.6 line 39 to col.7 line 64)

a means of detecting said networked devices and a means of determining a canonical location of said networked devices (notifying the peer computing devices of each new IP address assignment to each corresponding MAC address, see abstract, fig.2A, col.9 line 7 to col.10 line 64).

a monitor agent connected to said network interface, wherein said monitor agent issues an IP address to each of said networked devices and records a MAC address for each of said networked devices and wherein said monitor agent maintains a list of each said IP address and each said MAC address (notifying the peer computing devices of

each new IP address assignment to each corresponding MAC address, see figs.4A, 4B, col.9 line 7 to col.10 line 64 and col.13 line 55 to col.14 line 65).

As to claim 21, Lee discloses processing a new IP address for a new networked device, wherein said new IP address does not conflict with said list of each said IP address maintained by said monitor agent (see figs.4A, 4B, col.9 line 7 to col.10 line 64 and col.20 line 9 to col.21 line 61).

As to claim 22 and 23, Lee discloses a periodic nicest ARP request and processing a port number for said MAC address from a managed switching device (see figs. 4A, 4B, 5, col.9 line 7 to col.10 line 64 and col.13 line 55 to col.14 line 65).

As to claim 24, Lee discloses determining a canonical location of said networked devices comprises a means of processing a plurality of target devices at said canonical location (see col.9 line 7 to col.10 line 64 and col.13 line 55 to col.14 line 65).

9. Applicant's arguments filed on 11/5/2003 have been fully considered but they are not persuasive.

- Applicant asserts that the Lee reference does not disclose determining a canonical location of a network device.

*Examiner respectfully disagrees. Lee clearly discloses detecting said failed network device (130 fig.1B) having a known address to determine a corresponding canonical*

*location of said failed network device (130 fig.1B), wherein a port number of a managed switch operatively coupled to said failed network device (130 fig.1B) (identifying when a cluster to client communication is idle, see abstract, fig.1B, 2A, col.5 line 48 to col.6 line 60 and col.7 line 11 to col.8 line 60) as rejected above.*

*Claims 2-8, 14-19 and 21-24 are dependent on claims 1, 13 and 20 respectively. Therefore, they are rejected at least for the same reasons set forth above to claims 1, 13 and 20 or for other reasons set forth in the previous office action filed on August 7, 2003 [see Paper No. 5]. With all above given reasons, the rejections for claims 1-8 and 13-24 are respectfully maintained.*

### Conclusion

10. Claims 1-8 and 13-24 are **rejected**.
11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (703) 308-8528. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam Hosain, can be reached on (703) 308-6662. The fax phone number for this group is (703) 872-9306.

*A shortened statutory period for reply is set to expire THREE MONTHS from the mailing date of this communication. Failure to response within the period for response will cause the application to become abandoned (35 U.S. C . Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.

Khanh Dinh  
Patent Examiner  
Art Unit 2155  
December 7, 2003

*Alam*  
HOSAIN ALAM  
SUPERVISORY PATENT EXAMINER